

ESTTA Tracking number: **ESTTA434557**Filing date: **10/07/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bad Boys Finish First, Inc.
Granted to Date of previous extension	10/08/2011
Address	30 South Prospect Drive Coral Gables, FL 33133 UNITED STATES
Correspondence information	Benjamin Ashurov 1580 W EL CAMINO REAL SUITE 8 Mountain View, CA 94040 UNITED STATES ben@rajpatent.com Phone:6503906410

Applicant Information

Application No	85275112	Publication date	08/09/2011
Opposition Filing Date	10/07/2011	Opposition Period Ends	10/08/2011
Applicant	Wood, Aviance 1426 Windy Ridge Lane SE Atlanta, GA 30339 UNITED STATES		


Goods/Services Affected by Opposition


Class 025. First Use: 2006/00/00 First Use In Commerce: 2006/00/00 All goods and services in the class are opposed, namely: women's, men's, and children's, clothing and accessories, namely, T-shirts; denims jeans, overalls; dresses; skirts; lingerie; pants, shirts; blouses; hats; tank tops; sweat pants, sweatshirts; sweat shorts; yoga pants; hooded sweatshirts; culottes; sweaters; swim wear; lounge wear; athletic wear, namely, zip-up fleece hooded sweatshirts; zip-up jersey hooded sweatshirts; jersey shorts, fleece shorts; jersey sweat suit and fleece sweat suits; sleep wear; bathrobes; tunics; capelets; underwear; sport coats; blazers; suits; socks; belts; gloves; scarves; headband; neckties; hosiery; slippers; shoes; maternity wear, namely, maternity T-shirts, maternity tank tops; maternity shirts; maternity dresses; maternity denim jeans; maternity pants; and maternity culottes; cloth bibs; bib overalls; layettes; jackets in all fabrications and weights; leather jackets; suede jackets; fur jackets, leather coats, fur coats, suede coats

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85356040	Application Date	06/24/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BAD GIRLS FINISH FIRST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/12/01 First Use In Commerce: 2005/12/01 Clothing; namely, shorts, pants, tops, bottoms, t-shirts, hats, hooded sweatshirts, sleep wear, dresses, flip flops, sneakers, underwear, skirts		

U.S. Application No.	85356207	Application Date	06/25/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BAD BOYS FINISH FIRST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/12/01 First Use In Commerce: 2005/12/01 clothing, namely, t-shirts, hats, hooded sweatshirts, swimwear, underwear, shorts, socks, jackets, pants, tank-tops		

Attachments	85356040#TMSN.jpeg (1 page)(bytes) 85356207#TMSN.jpeg (1 page)(bytes) Aviance Wood Opposition Notice (Final).pdf (6 pages)(892888 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Benjamin Ashurov/
Name	Benjamin Ashurov
Date	10/07/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re: Application Sr. No. 85/275,112
Published: August 09, 2011
Applicant: Wood, Aviance
Mark: Bad Girls Finish First

<p>BAD BOYS FINISH FIRST INC.,</p> <p>Opposer</p> <p>Vs.</p> <p>WOOD, AVIANCE,</p> <p>Applicant.</p>	<p>Opposition No. _____</p> <p><u>NOTICE OF OPPOSITION</u></p>
--	---

Commissioner of Trademarks
P.O Box 1451
Alexandria, Virginia 22313-1451

Madam:

BAD BOYS FINISH FIRST INC. (“Opposer”), a Florida corporation, located and doing business at 30 South Prospect, Coral Gables, Florida, 33133, believes that it will be damaged by the registration in International Class 25 of the mark BAD GIRLS FINISH FIRST as shown in Application Serial No. 85/275,112 filed by Aviance Wood (“Applicant”), an individual, with mailing address at 1426 Windy Ridge Lane SE, Atlanta, Georgia, 30339, and published in the Official Gazette of August 09, 2011 and hereby opposes registration thereof.

As grounds for opposition, Opposer alleges:

1. Opposer is the owner of Application Sr. No. 85/356,040 for BAD GIRLS FINISH FIRST for “Clothing, namely, shorts, pants, tops, bottoms, t-shirts, hats, hooded sweatshirts, sleep wear, dresses, flip flops, sneakers, underwear, skirts” in International Class 25. Opposer’s application was filed on June 24, 2011

2. Opposer is also the owner of Application Sr. No. 85/356,207 for BAD BOYS FINISH FIRST for “Clothing, namely, t-shirts, hats, hooded sweatshirts, swimwear, underwear, shorts, socks, jackets, pants, tank-tops” in International Class 25. Opposer’s application was filed on June 25, 2011.

3. Opposer has used the marks BAD GIRLS FINISH FIRST and BAD BOYS FINISH FIRST in connection with the sale of various clothing items since at least as early as December 2005, and has acquired common law rights in the marks resulting therefrom. (Opposer’s BAD GIRLS FINISH FIRST and BAD BOYS FINISH FIRST Marks will be referred to collectively as the “Bad Girls and Boys Finish First Marks” and the goods offered under these marks will be referred to collectively as the “Bad Girls and Boys Finish First Goods”).

4. Since it first introduced the Bad Girls and Boys Finish First Goods in December 2005, Opposer has been continuously using Bad Girls and Boys Finish First Marks in interstate commerce with the Bad Girls and Boys Finish First Goods, sold its goods to many customers, and engaged in extensive and substantial advertising, sales, and marketing of its marks and goods. As a result of these substantial efforts and this investment, Opposer’s Bad Girls and Boys Finish First Marks are famous and well known to purchasers and the general public who recognize the marks as indicating the source of the goods as Opposer.

5. By virtue of Opposer's extensive use and promotion of the Bad Girls and Boys Finish First Marks and the Bad Girls and Boys Finish First Goods, Opposer has established valuable goodwill in the Marks, and the public has come to associate the Bad Girls and Boys Finish First Marks with Opposer. As such, the public has come to know the Bad Girls and Boys Finish First Marks as an indicator of products that originate from Opposer.

6. Applicant filed U.S. Trademark Application Sr. No. No. 85/275,112 (the "Application"), which is the subject of this opposition, on March 23, 2011 for the mark BAD GIRLS FINISH FIRST for "women's, men's, and children's, clothing and accessories, namely, T-shirts; denims jeans, overalls; dresses; skirts; lingerie; pants, shirts; blouses; hats; tank tops; sweat pants, sweatshirts; sweat shorts; yoga pants; hooded sweatshirts; culottes; sweaters; swim wear; lounge wear; athletic wear, namely, zip-up fleece hooded sweatshirts; zip-up jersey hooded sweatshirts; jersey shorts, fleece shorts; jersey sweat suit and fleece sweat suits; sleep wear; bathrobes; tunics; capelets; underwear; sport coats; blazers; suits; socks; belts; gloves; scarves; headband; neckties; hosiery; slippers; shoes; maternity wear, namely, maternity T-shirts, maternity tank tops; maternity shirts; maternity dresses; maternity denim jeans; maternity pants; and maternity culottes; cloth bibs; bib overalls; layettes; jackets in all fabrications and weights; leather jackets; suede jackets; fur jackets, leather coats, fur coats, suede coats" in International Class 25.

7. Applicant's date-of-first-use, as specified in the Application at the time the Application was filed was "2006-00-00." On August 1, 2011, Applicant filed a Preliminary Amendment to change the date-of-first-use from 2006-00-00 to March 8, 2007.

8. Applicant's goods as described in the Application, are highly related, if not identical, to Opposer's Bad Girls and Boys Finish First Goods and the goods with which Opposer uses its Bad Girls and Boys Finish First Marks.

9. Opposer began use of its Bad Girls and Boys Finish First Marks in connection with Opposer's goods at least as early as December 2005, well prior to Applicant's alleged date-of-first-use as specified in the Application.

10. Applicant's BAD GIRLS FINISH FIRST mark is identical to Opposer's BAD GIRLS FINISH FIRST mark and is extremely similar to Opposer's BAD BOYS FINISH FIRST mark. As a result of the similarity between Opposer's Marks and Applicant's Mark, and the highly related nature of the goods offered by Opposer and Applicant under their respective marks, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin, or sponsorship of the parties' respective goods.

11. Registration of the mark in the Application is likely to dilute Opposer's famous Bad Girls and Boys Finish First Marks, resulting in damage to Opposer, its good will and the strength and value of its Bad Girls and Boys Finish First Marks.

12. Registration of Applicant's mark as shown in the Application also will result in damage to Opposer under the provisions of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), pursuant to the allegations stated above.

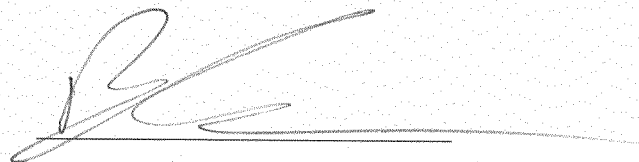
13. If the Application is permitted to register, the registration would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the BAD GIRLS FINISH FIRST mark. Such registration would cause confusion among consumers as to the separate and distinct source of Applicant's goods and Opposer's good and the relationship of Opposer to

Applicant, thereby damaging Opposer's goodwill in Opposer's Marks, diluting the value thereof, and resulting in irreparable harm to Opposer's business and reputation, all to the detriment of Opposer who has expended considerable sums and effort in Promotion Opposer's Marks.

WHEREOF, Opposer prays that this Opposition be sustained and that registration of U.S. Trademark Application Sr. No. 85/275,112 be denied.

Respectfully submitted,

Raj Abhyanker, P.C.

A handwritten signature in black ink, appearing to read 'Benjamin Ashurov', with a long horizontal line extending to the right.

Benjamin Ashurov
Attorneys for Opposer

Dated: October 07, 2011

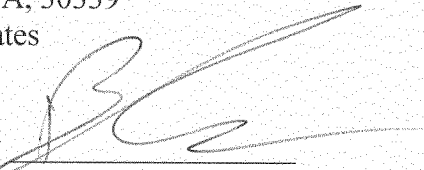
CERTIFICATE OF SERVICE

I certify that, on the 7th day of October, 2011, a true copy of the foregoing **NOTICE OF OPPOSITION** is being served by email and mailing a copy thereof by certified mail to:

Jennifer C. Kovalcik
STITES and HARBISON, PLLC
401 Commerce Street
Suite 800
Nashville, TN 37219-2376
United States
Jkovalcik@stites.com

AND

Wood, Aviance
1426 Windy Ridge Lane SE
Atlanta, GA, 30339
United States

By 
Benjamin Ashurov
Raj Abhyanker, P.C.
1580 W. El Camino Real, Suite 8
Mountain View, CA 94040
Phone: (650) 965-8731
Fax: (650) 989-2131
Attorneys for Opposer